

**Appl. No. 10/799,170**  
**Amdt. dated February 7, 2006**  
**Reply to final Office action of December 9, 2005**

**Amendments to the Drawings:**

The attached sheet of drawings includes new Fig. 6. In Fig. 6, lines 506 and 508 represent an exploded version of their depiction in Fig. 3.

Attachment: New Sheet

### REMARKS/ARGUMENTS

Applicant has received the final Office Action dated December 9, 2005, which: 1) objects to Figure 3; 2) rejects claim 26 under 35 U.S.C. § 112, second paragraph, as allegedly indefinite; 3) rejects claims 1, 3, 16, 23 and 24 under 35 U.S.C. § 103(a) as allegedly unpatentable over *Desplats et al.* (U.S. Pat. No. 6,891,363, hereinafter "*Desplats*") in view of *Breu* (U.S. Pat. No. 5,023,916, hereinafter "*Breu*"); 4) rejects claims 4, 6, 7, 10, 12, 13 and 26 under 35 U.S.C. § 103(a) as allegedly unpatentable over *Desplats* in view of *Breu* and further in view of *Tsuchiya* (U.S. Pub. No. 2003/0078503, hereinafter "*Tsuchiya*"); 5) rejects claim 5 under 35 U.S.C. § 103(a) as allegedly unpatentable over *Desplats* in view of *Breu* and *Tsuchiya* and further in view of *Ishiga* (U.S. Pub. No. 2003/0026477, hereinafter "*Ishiga*"); 6) rejects claim 8 under 35 U.S.C. § 103(a) as allegedly unpatentable over *Desplats* in view of *Breu* and further in view of *Barrett et al.* (U.S. Pat. No. 6,392,235, hereinafter "*Barrett*"); 7) rejects claim 9 under 35 U.S.C. § 103(a) as allegedly unpatentable over *Desplats* in view of *Breu* and further in view of *Ackermann et al.* (U.S. Pat. No. 6,839,656, hereinafter "*Ackermann*"); 8) rejects claims 17, 18, 19 and 21 under 35 U.S.C. § 103(a) as allegedly unpatentable over *Desplats* in view of *Breu* and further in view of *Tsuchiya*; 9) rejects claim 20 under 35 U.S.C. § 103(a) as allegedly unpatentable over *Desplats* in view of *Breu* and *Tsuchiya* and further in view of *Ackermann*; 10) rejects claim 22 under 35 U.S.C. § 103(a) as allegedly unpatentable over *Desplats* in view of *Breu* and further in view of *Barrett*; 11) objects to claim 25 as being dependent upon a rejected base claim, but otherwise allowable; and 12) allows claims 14 and 15.

With this Response, Applicant amends claims 1, 16, and 26, cancels claim 25, and adds new Fig. 6. Therefore, claims 1, 3-24, and 26 remain pending.

#### I. DRAWINGS

The Office Action objects to Figure 3 because it is "too dark making it difficult to distinguish between lines 508 and 506." Accordingly, Applicant submits herewith an exploded view of Fig. 3 as new Fig. 6, which allows lines 506 and

508 to be distinguished from each other. Applicant respectfully submits that, no new matter is added by this additional Figure.

## **II. THE CLAIMS**

Applicant appreciates the allowance of claims 14 and 15 as well as the effective allowance of dependent claim 25.

Independent claim 16 and its dependent claims stand rejected under § 103 as allegedly unpatentable over *Desplats* in view of *Breu*. With this response Applicant cancels claim 25 and amends its subject matter into independent claim 16, and therefore Applicant respectfully submits that claim 16 and its dependent claims are in condition for allowance.

Additionally, independent claim 1 and its dependent claims stand rejected under § 103 as allegedly unpatentable over *Desplats* in view of *Breu*. Applicant amends claim 1 to include the claim element "improving resolution of the circuit image by approximating a photon intensity of adjacent spaced devices." The Office Action mentions that this claim element, along with the other claim elements of claim 15, is not taught or suggested in the cited art. Thus, Applicant respectfully submits that this claim element renders claim 1 and its dependent claims patentable over the cited art for at least this reason.

Claim 26 stands rejected under § 112, 2<sup>nd</sup> ¶, as allegedly indefinite. With this response, Applicant amends claim 26 to rectify any potential indefiniteness by specifying that any one of the acts of comparing, predicting, and improving may be forgone if the measured photon emissions from the photon emission area are constant. Accordingly, Applicant respectfully submits that claim 26 is in a condition for allowance.

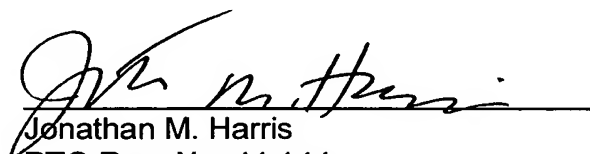
## **III. CONCLUSION**

In the course of the foregoing discussions, Applicant may have at times referred to claim elements in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other elements can be ignored or dismissed. The claims must be viewed as a whole, and each element of the claims must be considered when determining the patentability of the claims.

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Applicant respectfully requests reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

  
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